

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

CASE NO.: 1:23-cv-22352-RNS

THE SMILEY COMPANY SPRL,

Plaintiff,

v.

THE INDIVIDUALS, PARTNERSHIPS  
AND UNINCORPORATED ASSOCIATIONS  
IDENTIFIED ON SCHEDULE "A,"

Defendants.

---

**PLAINTIFF'S MOTION TO EXTEND *EX PARTE*  
TEMPORARY RESTRAINING ORDER AND RESCHEDULE  
HEARING ON MOTION FOR PRELIMINARY INJUNCTION**

Plaintiff, The Smiley Company SPRL ("Plaintiff"), by and through its undersigned counsel and pursuant to Fed. R. Civ. P. 62(b)(2) and S.D. Fla. L.R. 7.1, respectfully moves for an order extending the Court's Sealed Order Granting Application for Entry of Temporary Restraining Order [ECF No. 17] and rescheduling the presently scheduled July 24, 2023, hearing on Plaintiff's Motion for Preliminary Injunction, and in support states as follows:

1. On July 10, 2023, this Court issued its Sealed Order Granting Application for Entry of Temporary Restraining Order (the "TRO"). The TRO required Plaintiff to notify Defendants of the instant action as well as the preliminary injunction hearing scheduled for July 24, 2023, at 9:00 a.m.

2. Pursuant to the TRO, any third-party financial institution providing services to the Defendants identified on Schedule "A" to the Complaint (the "Third Party Providers") that receive notice of the TRO are instructed to restrain the respective financial accounts of the Defendants and

are further instructed to provide Plaintiff with expedited discovery relating to the identities of the Defendants as well as details of their respective financial accounts. TRO at p. 19.

3. On July 10, 2023, undersigned counsel provided copies of the TRO to counsel and/or representatives for the Third Party Provider providing services to the Defendants identified in Schedule “A” to the Complaint (*i.e.*, Wish). Declaration of Richard Guerra (“Guerra Decl.”) at ¶ 3.

4. Third-Party Provider Wish has yet to respond. Guerra Decl. at ¶ 4. Indeed, it is undersigned counsel’s experience that it requires approximately two to three weeks for Third-Party Providers to process and restrain the accounts associated with the Defendants identified in Schedule “A” to the Complaint. *Id.*

5. As set forth in the Court’s TRO, if the Defendants are notified of this proceeding prior to having their respective accounts restrained, “Defendants can easily and quickly change the ownership or modify domain registration and e-commerce store account data and content, change payment accounts, redirect consumer traffic to other seller identification names, and transfer assets and ownership of Seller IDs thereby thwarting the Plaintiff’s ability to obtain meaningful relief.” TRO at p. 17. Therefore, before Plaintiff can proceed with service of the TRO on Defendants (and thus, with this Court’s presently scheduled July 24, 2023, preliminary injunction hearing) Plaintiff must first receive confirmation from the aforesaid Third-Party Provider that the financial accounts owned by Defendants have been restrained.

6. Pursuant to Federal Rule 65, this Court may issue a temporary restraining order for a period of fourteen (14) days, and “for good cause shown,” may extend a temporary restraining order for a “like period” of time. Fed. R. Civ. P. 65(b)(2). Here, because Plaintiff will not be in a

position to restrain all of the Defendants' accounts prior to the preliminary injunction hearing currently set forth in the TRO, good cause exists for an extension of the TRO.

WHEREFORE, Plaintiff respectfully requests that 1) the preliminary injunction hearing is rescheduled at a date and time following July 24, 2023; and 2) the TRO is extended to remain in effect until after the conclusion of the rescheduled preliminary injunction hearing.

Date: July 18, 2023

Respectfully submitted by,

**Richard Guerra**

Richard Guerra (Fla. Bar No. 689521)

Attorney Email address: [rguerra@brickellip.com](mailto:rguerra@brickellip.com)

THE BRICKELL IP GROUP, PLLC

1101 Brickell Avenue, South Tower, Suite 800

Miami FL, 33131

Telephone: (305) 728-8831

*Attorneys for Plaintiff*